G. R. S. 59] GPB—15,000—20-12-13

P 11

GENERAL AND REVENUE SECRETARIAT.

1913.14

(Police)

File No. 193-13.

May be presented for 1/4/14

Serial Nos. 1-2

Papers Filed.

(*Month* May 14

SUBJECT.

Procession dispute between the Tigalan & Siwachan of Nillur.

PREVIOUS REFERENCES.	LATER REFERENCES.
Pol 7/2/13.	

4.2.15

G.R.S. 11] 1913-14

GENERAL AND REVENUE SECRETARIAT.

(Police)

NOTES.

File No. 193-13

FILE HEADING.

Procession dispute between the Tipalans & Sivachans of Nittur.

From

— Kumpeswara residing at Nittur.

No. .. Dated 25-3-14 Received 30-3-14

Diary No. J3141	Enclos. 1	Spare Copies. ..	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Prays that the order of the Dt. Magte. of the Tinnevelly Dt. directing the Amildar Magte. of Gubbi to take further evidence & dispose of, according to law, the case re the grant of a license to the petitioners for conducting marriage procession may be set aside & that further proceedings in the case may be ordered to be stopped pending the disposal of the present petition.

NOTES AND ORDERS.

It will be seen from the petition itself that the case has not yet been decided but is still subjudice and has been remanded to the Amildar Magte. of Gubbi for further enquiry & disposal according to law. The petitioners prayer

NOTES—First Sheet.

GPB—30,000—12-8-11

Serial No.

for a stay order and for the cancellation of the Dt. Magte's order amounts to a request for putting a stop to all further enquiry. It is a matter for consideration whether Govt. can set aside an order passed by the Dt. Magte., as such, remanding a case to a subordinate magte. It may be noted that the petition was presented only after the date stated to have been fixed for enquiry by the Amildar in accordance with the Dt. Magte's order. Orders of Dt. Magte re grant of licenses for conducting processions are not appealable (Vide note in Police File 172-13). In these circumstances it is a matter for consideration whether any interference on the part of Govt. is called for in this case and if so at this stage.

2) Subd. for orders.

3) Under S 45 of Regn 5 of 1908 (Police Regn). the Dt magte, Asst Magte, any Amildar or Dy Amildar may within the limits of local jurisdiction of which any part of the area forming part of the Regn does not prescribe any

NOTE—Contn. sheet.

Serial No.

71 Q

procedure of appeal. Looking into the Speech of Mr. Puttanaiah in the legislative Council in which this Regn was passed it is seen that the orders of an Assistant or subordinate Magte is appealable and the D.C. Magte's order thereon is final. The Select Committee which considered the bill was for granting an appeal to Dist Magte but the Speech and the subsequent discussions thereon clearly show that that recommendation was not passed. In accordance with the

71 W

obtained in the Branch on account of bulk R.G.S.

71 Q

foregoing it seems that Govt entertain petitions and give directions to the D.C. Magte's.

4) It may be permitted perhaps to discuss the strict legal aspect of the situation. The words in any Statute should be interpreted strictly and as the words D.C. Magte, Asst Magte occur as the proceedings in which a license is given or withheld is a judicial proceeding and as D.C. Magte & Asst Magte are officers brought into being & the provisions of the Civil Procedure Code, in the absence of the rule to make the decision of D.C. Magte final, an appeal would have lain perhaps to the Dist Court in revision by way of Civil Appeal to the High Court as per in the

NOTE—Contn. sheet.

GPB—60,000—7-11-13

4

General and Revenue Secretariat. | Police File No. 193 of 1913-14

Serial No.

natural order of things. As the D.M.'s decision is final & not appealable the legal remedies are exhausted. The approaching Sessions is an inherent right and even a Condemned Criminal appeals for the exercise of mercy. The petitioner in this Case should have the same benefit and shall be treated in the same manner as a petn for mercy and unless the strongest possible reasons are prima facie shown to direct interference Govt not to be condemable. Govt pleads they Can exercise any law Can give directions to the D.M. but just as the Amended Law comes into operation in the disposal of Petitions, thus no objn to the Case which faced in with the directions of Govt to D.M. to have only a due regard.

5) The petn receives thro' no strong grounds such as sickness or ill-being of a Convict or any pressing Call for sitting as the Exercise of the Extraordinary powers of Govt & there is no reason to either close a Stay order or to entertain

NOTE—Contn. sheet.

G.P.B.—60,000—7-11-13

G. R. S. 12]

55

General and Revenue Secretariat.

Police File No. 193 of 1913-14

Serial No.

the petition for Consideration. I entertain the application & take action hereon as my humble thinking appear that I entertain an appeal which is not where provided for and to that case the direction that the H. Majesty's decision shall be final.

6) The subject matter of petitioner's grievances on a declaratory right vested in him and in the absence of definite rules in which cases alone this declaratory right can be exercised leads to a number of petitions being received without sufficient reason.

The present petition has been examined & rejected.

7) [A copy of the petition & the notes of the Secretary thought that the subject matter of some importance required a review of the whole situation to arrive at a clear understanding.]

Secy

5 There is no provision of law under which it is open to Govt to interfere in this matter at this stage. The appeal preferred to Govt does not legally lie and it may therefore

NOTE—Contn. sheet.

G P B—60,000—7-11-13

G. R. S. 12]

General and Revenue Secretariat. | Pol File No. 193 of 1913.

Serial No.

Received to be rejected.

Second member)

9) Js. 9 agree
Cecil
2/4 Dmn 4/5

11) Draft 1/4/15

12) Draft endorsement submitted
AS 6/5/14 1/4/15
Secy!

7/ 6/5

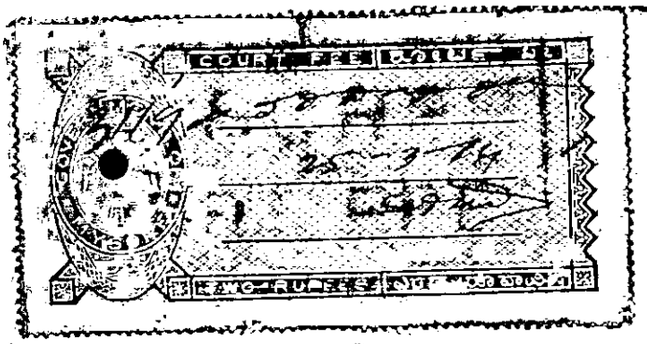
13 Approved 6/5/15 Dmn 8/5

14 Issue 8/5/15

2 To Mr. Kempegowda of Nittur
C/o. Mr. M.C. Ganadachari, Advocate
Bangalore.
No. J 3327 dt 16-5-14.
Intimates that the appeal preferred to Govt by him petition does not legally lie & the appeal is therefore rejected.

NOTE—Contn. sheet.

G P B - 60,000—7-11-13



J 3141

	1913-1914
	Police
	193-13
	1

B III

Police 203

Before the Government of Mysore, at Bangalore

His appeal No. of 13-14

Applt.		Respts.
Kempegowda, aged about 50 Lifalar, residing at Nittur, Subbi Taluk	}	1 Timmappa, son of Javarappa 2 Kallia, son of Kallegowda 3 Irani Basavia, son of Chinna-Basavia 4 Kala Nanjia, son of Kariamma 5 Patel Kallia, son of Basavegowda

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The appellant above-named respectfully begs to State as follows:-

1 About the middle of last year the appellant, who is a Lifalar, applied to the Amildar Magistrate of Subbi, praying for the grant of a license to him to take in procession on a bull through the principal Streets of Nittur, a bridal couple in his house who had recently been married.

2

2. Some of the Sivachars of Nittur, including the respondents, who have been inimically disposed towards the Zilladars, & who have been trying to displace, harass & annoy them, opposed the petition of the appellants & objected to the grant of the license prayed for.

3. The Amildar Magistrate of Subbi, after hearing the representations of both sides, ordered that the appellants was entitled to the grant of the license prayed for, on the grounds:— a) that the bull is not the exclusive property of the Sivachars b) that so long as the Zilladars do not encroach upon the civil rights of the Sivachars, the former were entitled to go in procession in the public streets of Nittur.

c) that the tendency of recent decisions is to recognise the inherent right of each citizen to the use of the public streets.

d) that there could be no reasonable objection to the grant of the license prayed for.

4. on the prayer of the Respondents, however, the learned Amildar Magistrate granted a couple of months' time to Enable them to have their rights Established in a civil court.

5. The respondents, however, instead of trying to have their rights Established in a civil court, appear to have prefered an appeal before the District Magistrate of Tumkur on or about 4-10-1913.

6. The learned District Magistrate appears to have thereupon ordered on or about 7-3-1914 that the Amildar Magistrate of Gubbi should take Evidence adduced on both sides & dispose of the case according to Law.

4

7 The appellant made more than one attempt to obtain an authenticated copy of the order of the District Magistrate. But he has been refused the grant of the said copy both by the District Magistrate as well as by the Additional Magistrate. Nor have the said Magistrates been pleased to give the appellant as prayed for by him, an endorsement to the effect that they refuse to grant him the required copy.

8) Hence the appellant has been driven to the necessity of preferring this appeal before this Hon'ble Court without a copy of the District Magistrate.

9 The order of the District Magistrate ordering further enquiry is unnecessary & illegal.

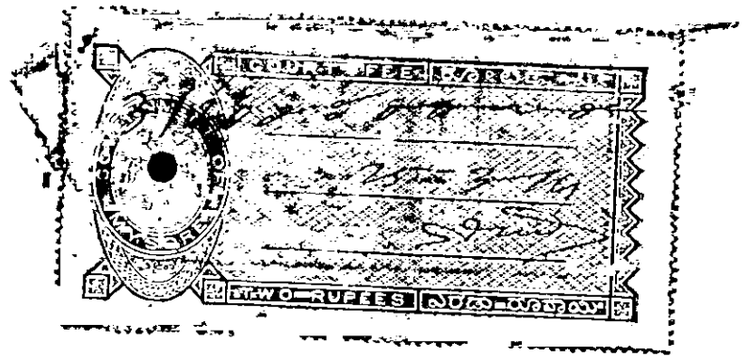
3)

10) The appellant therefore prays that this Hon'ble Court may be pleased to 1) Call for the records in this case No 1. of 13/14 on the file of the Amildar Magistrate of Gubbi & the order of the District Magistrate passed on the respondent's petition dated 4-10-1913, & after a perusal of the same, set aside the order of the learned District Magistrate -

11) As the Amildar Magistrate of Gubbi has posted the case for Evidence & Enquiry for to-day, the appellant prays that this Hon'ble Court, while calling for the records, may be pleased to order stay of proceedings till this appeal is heard & disposed of -

Bangalore
25-3-1914

M. Venkatakrishnaiah
Advocate for
Applt



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Encl 5
Pol 193-13-1

In the Court of the Government of H. H. The Maharaja of Mysore, Bangalore.

Rev: Apl: CASE No. OF 1913 — 1914.

Appellant ~~*Plaintiff*~~ *Respondent* ~~*Defendant*~~.

Kempe Gowda Vs. 1 Chinnappa & 4 others

I/ The ..... Appellant ..... above named do, by these presents retain Messrs C. S. Doraswami Iyer, B. A., B. L., and M. G. Varadachar, B. A., B. L. and T. Singaravelu Modaliar B. A., B. L., Advocates to appear and conduct the above case on ..... my ..... behalf to Judgement.

2. I/ Further empower them to execute any decree or order that may be passed in ..... my ..... behalf, and to receive from Court such sums of money as ..... I ..... may be entitled to get and to grant receipts therefor.

3. I/ Also undertake to confirm and ratify all the legal acts done by the said Advocates in so doing.

ಅಂಗೀಕರಿಸಿ ಸಹಿಮಾಡಿದೆ ಮತ್ತು
ಅದು ನಿಂತಿಗೆ ಸರಿ ಇರುತ್ತದೆ.

ಕಂಪೇಗೌಡ.

24-3-14.

Accepted

M. G. Varadachar
25/3/14
ADVOCATES FOR Appellant

Signed before me and personally known to me.

M. G. Varadachar
25/3/14.
ADVOCATES.

11/5 3141

7

No. J 3327
Pol 1913-13-

MYSORE GOVT. GEN. & REV. SECRETARIAT,
Dated, Bangalore, 16-5- 1914.

ENDORSEMENT GRANTED TO Mr Kempe Gowda resident of Nittur, C/o Mr. M. G. Varadachar, Advocate, Bangalore

in reply to his Appeal-Petition Registered No. J. 3141 dated 25th March 1914 praying that the records in Miss Case No 1 of 1913-14 on the file of Amildar Magistrate of Gubbi may be called for & that further proceedings therein may be stayed till the disposal of this appeal.

Petitioner is informed that the appeal preferred by him to Govt. does not legally lie and that his appeal is therefore rejected.

By Order,

Secretary.

Dues
9/5

Ecc-AS 54
6/5/14

15/5